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PATENT DEPARTMENT (K-6-1, 1990)
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OFFICE OF PETITIONS

In re Application of
Wild et al.
Application No. 09/993,777
Filed: November 6, 2001
Attorney Docket No. SY01106KQ1

: DECISION GRANTING-IN-PART
: PETITION
:
:

This is a decision on the petition filed April 3, 2002, requesting that the above-identified application be accorded a filing date of November 6, 2001, with Figures 1-35 as a part of the original disclosure.

On November 6, 2001, applicants filed the above-identified application. However, on February 27, 2002, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Application," requiring drawings of applicants' invention and stating that the filing date would be the date of receipt of the omitted drawings. It is noted that the specification filed on November 6, 2001, describes drawings containing Figures 1-35; however, it appears the United States Patent and Trademark Office (Office) did not receive these drawings. Additionally, the Notice stated that applicants must provide a statement that the content of the sequence listing information recorded in the computer readable form is identical to the written (on paper or compact disc) sequence listing, and where applicable, includes no new matter.

In response, applicants filed the present petition, a copy of the drawing sheets consisting of Figures 1-35, paid the petition fee, and submitted a sequence listing statement.

As stated in MPEP § 601.01(f), it is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application

filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors.

This application contains method claims. Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

MPEP § 601.01(g) states that if an application is filed without all of the drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In view of the above, the requirement for drawings as set forth in the "Notice of Incomplete Application" mailed February 27, 2002, was sent in error and is hereby vacated. The application is accorded a filing date of November 6, 2001.

The petition is granted to the extent that the application will be accorded the filing date of November 6, 2001, without the drawings containing Figures 1-35 as a part of the original disclosure of this application.

The application file is being returned to the Office of Initial Patent Examination for further processing with a corrected filing date of November 6, 2001, indicating in the Office records that "0" sheets of drawings were present on filing, and the mailing of a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

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